

MEMORANDUM

April 26, 2005

TO: THE LOS ANGELES COUNTY CLAIMS BOARD

FROM: JOHN M. COLEMAN
Coleman and Associates

ROGER H. GRANBO
Principal Deputy County Counsel
General Litigation Division

RE: Frank and Sylvia Soliz v. County of Los Angeles
Pomona Superior Court Case No. KC 043539

DATE OF
INCIDENT: January 10, 2003

AUTHORITY
REQUESTED: \$75,000

COUNTY
DEPARTMENT: Department of Public Works

CLAIMS BOARD ACTION:




Approve



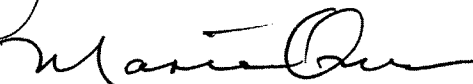
Disapprove



Recommend to Board of
Supervisors for Approval


_____, Chief Administrative Office
ROCKY A. ARMFIELD


_____, County Counsel
JOHN F. KRATTLI


_____, Auditor-Controller
MARIA M. OMS

on May 16, 2005

SUMMARY

This is a recommendation to settle for \$75,000, a lawsuit for dangerous condition of public property and inverse condemnation, filed by Frank and Sylvia Soliz, whose home was damaged by sewage that flowed into their home from a sewer line maintained by the County.

LEGAL PRINCIPLES

A public entity is liable for injuries caused by a dangerous condition of its property if the property was in a dangerous condition at the time of the injury, the injury was caused by the dangerous condition, the dangerous condition created a foreseeable risk of the type of injury that was suffered, and the public entity had actual or constructive notice of the dangerous condition.

A public entity is liable under the law of inverse condemnation for damage caused to property, when the damage was caused by a public improvement as deliberately designed, and constructed by the public entity, whether or not the damage was foreseeable. Inverse condemnation liability can be based on an improper maintenance plan of the public entity. A prevailing plaintiff in an inverse condemnation action is entitled to an award of reasonable attorney fees.

SUMMARY OF FACTS

On January 10, 2003, a County maintained sewer line in San Dimas backed up into the lateral sewer line of Frank and Sylvia Soliz. Raw sewage flooded into their bathroom, and spread throughout the home. The County maintained sewer line had become clogged by tree roots which caused the sewage to travel into Mr. and Mrs. Soliz's lateral sewer line.

The flooding caused extensive damage to the floors, carpeting, walls, and to personal belongings.

The County had a sewer maintenance plan in place in the neighborhood that consisted of semi-annual visual inspections of the sewer line. The sewer line had been inspected on August 15, 2002, five months prior to the incident, and no stoppages in the sewer line were seen.

DAMAGES

Should this matter proceed to trial, we estimate the potential damages could be as follows:

Cost of clean up	\$ 29,700
Damage to personal property	\$ 85,000
Damage to real property	\$ 26,000
Hotel expenses	\$ 1,500
Emotional distress	\$ 50,000
Attorney fees and costs	<u>\$ 50,000</u>
Total	<u>\$ 242,200</u>

The proposed settlement calls for the County to pay Frank and Sylvia Soliz \$75,000 for all of their claims for damages, costs, and attorney fees.

STATUS OF CASE

The trial court proceedings have been suspended pending consideration of the proposed settlement.

Expenses incurred by the County in defense of this action are attorney fees of \$9,169 and \$1,184 in costs.

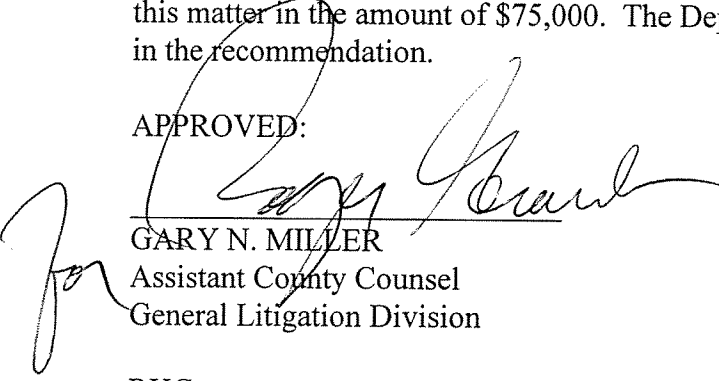
EVALUATION

This is a case of disputed liability. The dangerous condition allegation does not pose a threat of liability, as the County did not have actual or constructive notice of the tree roots in the sewer line. However, a jury could find that the County's sewer maintenance plan was defective because the visual inspections were not sufficient to detect or prevent tree roots in the sewer line. If the jury finds the plan was defective, the County would be liable under the inverse condemnation cause of action.

A reasonable settlement at this time will avoid further litigation costs, and a jury verdict, along with attorney fees, that could exceed the proposed settlement.

We join with our private counsel, John M. Coleman, and our third party administrator, Carl Warren and Company, in recommending a settlement of this matter in the amount of \$75,000. The Department of Public Works concurs in the recommendation.

APPROVED:



GARY N. MILLER
Assistant County Counsel
General Litigation Division

RHG:scr